

1     their car across people's lawns or digging up  
2     plants, and these are the kinds of things that  
3     some people have with bipolar disorders or  
4     something like that.

5             Q.     In Mr. Cook's case, did you  
6     discuss with Mr. Cook any of the occurrences  
7     that he had with his employer at the City of  
8     Norwood?

9             A.     To the best of my recollection  
10    here, and I'm going back to something we were  
11    reading just a few minutes ago, he volunteered  
12    to me that -- and that's in the comments on  
13    page two, fourth paragraph up from the bottom,  
14    that he still had thoughts of going to City  
15    Hall and blowing their brains out. And so from  
16    that, I took it that he was at odds with his  
17    former employer, the City of Norwood.

18            Q.     Did you explore with him the  
19    problems that he had with his employment at the  
20    City of Norwood?

21            A.     I did explore that in a number of  
22    issues. One of the problems with Mr. Cook,  
23    unfortunately, is that -- and I think this is  
24    at the top of page three, when people are this  
25    pressed and this distressed, or when they're

1 this distressed they become pressed in their  
2 ability to focus on something. It's hard to  
3 keep someone focused for more than a few  
4 seconds. So it was just part of the interview  
5 process that it was really very difficult to  
6 get any kind of complete responses to any  
7 number of questions.

8 Q. In making the evaluation, which we  
9 have marked as Defendant's Exhibit 1, that was  
10 for the specific purpose of determining whether  
11 the bipolar disorder was related to Mr. Cook's  
12 neck injury; is that correct?

13 A. Yes, sir.

14 Q. And in going through Exhibit  
15 Number 1, on page two of that document, you  
16 reviewed Dr. George Parsons' psychological  
17 evaluation of 11/17/1999; is that correct?

18 A. Yes, it is.

19 Q. And you did not find any problem  
20 with his evaluation of Mr. Cook; is that  
21 correct?

22 A. That would not be correct. I  
23 don't find positively or negatively about the  
24 files I review. I just review them, put them  
25 down, and then to whatever extent it may or may

1 not be something I want to delve back into, I  
2 do that, but I just use them as background  
3 information.

4 Q. When you put down there, "The  
5 findings of the files reviewed are accepted,"  
6 what did you mean by that?

7 A. Okay. All that means is I  
8 accepted the findings were done by another  
9 licensed professional, and that was their  
10 opinion at the time. That doesn't mean that I  
11 necessarily do or do not concur, and that's a  
12 pretty standard thing that all of us put in  
13 these IMEs.

14 Q. Did you talk with Dr. David Helm  
15 concerning Mr. Cook?

16 A. No, I did not.

17 Q. And just a couple more issues.  
18 This examination that you did of Mr. Cook, how  
19 long did that last?

20 A. Probably about 40 minutes.

21 Q. And what, if anything, would the  
22 disclosure of medical records of a bipolar  
23 patient, would that have any impact on his  
24 bipolar condition?

25 A. I want to make sure I'm

1 understanding you. Would the revelation to the  
2 injured worker that he was diagnosed as  
3 bipolar? Is that what you're saying?

4 Q. No, the revelation by an employer  
5 of a bipolar individual's medical records.  
6 Would that have any impact on that individual?

7 A. I'm not trying to be difficult, I  
8 want to make sure I understand the question.  
9 The employer is releasing information to the  
10 injured worker?

11 Q. No.

12 A. I still don't understand.

13 Q. Releasing it to his fellow  
14 employees.

15 A. Oh, to his fellow employees.

16 MR. HILLER: Objection.

17 MR. MARTIN: I also object.

18 A. I'm really -- that's just very  
19 difficult to come up with a response to. I'd  
20 almost have to be there or have people tell me  
21 how he reacted, how he might have reacted.

22 Q. And based upon your experience,  
23 are there acts that people can commit that  
24 would exacerbate a bipolar condition?

25 A. Acts that others can commit upon

1 the bipolar patient?

2 Q. Yes.

3 A. I have to think about this for a  
4 second. I would have to say yes, and I would  
5 say it would have to, again, be extreme enough  
6 to take it from whatever level the person's at  
7 to another level. That it would be a  
8 significant jump up.

9 Q. And when you say it would have to  
10 be severe enough, what type of acts would  
11 exacerbate a bipolar condition?

12 A. Okay. I'm going to have to -- can  
13 I expound a little bit here?

14 Q. Certainly.

15 A. Just because a person is bipolar  
16 doesn't mean that they have the same kind of  
17 personality. That's a condition. Just as  
18 anyone can be depressed -- we could all have  
19 very different personalities and obviously do,  
20 we can still be depressed. Bipolar disorder  
21 people are not all possessed of the same  
22 personality and that would seem to me to be  
23 pretty important to know; that is the core  
24 personality, for me to really answer that  
25 accurately as to whether -- but I'll go this

1 far and say that, for example, if his family  
2 was threatened or he felt that the safety of  
3 his family or himself was threatened somehow,  
4 something very extreme like that, a survival or  
5 perceived survival, that might certainly be  
6 enough to exacerbate someone who has a bipolar  
7 condition.

8 Q. So would a death threat to a  
9 bipolar individual, is that one of the  
10 conditions that could exacerbate his bipolar  
11 condition?

12 A. It could.

13 MR. HILLER: Objection.

14 MR. MARTIN: Note my objection  
15 also.

16 Q. And one of the other issues that I  
17 wanted to discuss with you is this. You stated  
18 that you would need a baseline to determine if  
19 his condition was exacerbated.

20 A. Yes, sir.

21 Q. And you didn't have that baseline;  
22 is that correct?

23 A. Didn't have it. Unfortunately,  
24 with bipolar disorder, it's a gray zone, if you  
25 will. Bipolar tends to manifest itself over



1 some time. It's not like the person wakes up  
2 one day and has the condition, and so it can be  
3 awfully difficult to establish a baseline even  
4 with a lot of information. And that's just  
5 what makes this so much -- something that,  
6 clinically, what we do in this field is just  
7 try to treat it and manage it, because it is so  
8 difficult to establish that baseline. Unless  
9 you have successful treatment that's ongoing  
10 and then you've created a baseline which is  
11 with successful treatment: "Here's how the  
12 person is."

13 Q. When you interviewed Mr. Cook, did  
14 you discuss with him his removal from his job  
15 as street sweeper operator?

16 A. I don't specifically recall that.  
17 I see notes that tell me that I got his opinion  
18 on that but I don't specifically recall asking  
19 him that, no, sir.

20 Q. Did you have any discussion with  
21 Mr. Cook concerning his inability to return to  
22 work when the City of Norwood stated it had no  
23 light duty work available but permitted younger  
24 workers to perform light duty work?

25 MR. HILLER: Objection.

1 MR. MARTIN: Objection.

2 A. I don't have, again, a specific  
3 recollection. That kind of question tends to  
4 come up pretty routinely in these kind of  
5 evaluations and there is often that frustration  
6 noted, but I don't have specifically a  
7 recollection of that. No, sir.

8 Q. And did you have any discussion  
9 with Mr. Cook that the City of Norwood  
10 suspended him over, among other things, his  
11 filing of an EEOC charge concerning age  
12 discrimination involving the City of Norwood?

13 MR. MARTIN: Objection.

14 MR. HILLER: Objection.

15 A. I have no recollection of that at  
16 this point, about two and a half years ago.

17 Q. Now, the last sentence of your  
18 report states, "Hopefully, the injured worker  
19 will follow through with his treatment plan for  
20 this serious psychological condition." Do you  
21 see that?

22 A. Yes, sir.

23 Q. Now as you're sitting here today,  
24 do you know when the onset date was of that  
25 serious psychological condition?



1 A. Offhand, I do not.

2 Q. And the serious psychological  
3 condition that we're talking about is his  
4 bipolar condition.

5 A. Yes, sir, it is.

6 Q. And going to the second page of  
7 your report, when asked to describe his own  
8 psychological status, Mr. Cook stated, "Still  
9 have thoughts of going to City Hall and blowing  
10 their brains out." Did you explore that issue  
11 with him concerning his basis for that  
12 statement?

13 A. Yes, I did.

14 Q. And did he explain to you why he  
15 felt that way?

16 A. What I recall is he gave me a lot  
17 of narrative and from that narrative I pieced  
18 together my conclusions. That was the basis  
19 for my impressions which led to my conclusions.  
20 He was so scattered that it wasn't like I could  
21 ask him a question, then he would just say  
22 number one, two, three and four. So yes, I did  
23 talk with him about that, and I talked about it  
24 in my impressions and conclusions.

25 Q. Does a bipolar condition always



1 result in disability, Dr. Oleski?

2 A. It does not have to, no, sir.

3 Q. Are there individuals who have  
4 bipolar disorder who are able to function and  
5 go to work?

6 A. Yes, there are.

7 Q. When you spoke with Mr. Cook, were  
8 you aware that he had been employed by the City  
9 of Norwood for approximately 25 years?

10 A. I knew that he had been employed  
11 by the City of Norwood. Just to be accurate,  
12 I'm not -- I mean, I don't have specific  
13 recollection that it was 25 years. I know it  
14 was lengthy.

15 Q. And did you become involved in any  
16 discussion with Mr. Cook concerning his  
17 treatment by his employer, the City of Norwood?

18 A. Again, I think I touched upon this  
19 a little bit a few minutes ago. It's pretty  
20 common for people to ventilate, and upon doing  
21 the evaluation I give them that time to  
22 ventilate their feelings, whatever it might be  
23 most pressing in their lives, and very often  
24 it's their relationship with their employer.  
25 And I obviously did that because I have at

1 least one quote here where he expressed some  
2 real concern about them and some negative  
3 feelings, so I would say yes.

4 Q. But you didn't determine the  
5 veracity of these allegations made by him; is  
6 that correct?

7 A. That is correct.

8 Q. And did you have any discussion  
9 with Mr. Cook concerning any actions taken at  
10 his place of employment by an individual by the  
11 name of Gary Hubbard?

12 MR. MARTIN: To which I object.

13 A. Again, I just don't have  
14 recollection. I may have, I may not have.  
15 It's been two and a half years at this point.

16 Q. Were you aware that Dr. Helm has  
17 been treating Mr. Cook for his bipolar  
18 condition at the time that you did your report?

19 A. I believe I was aware of that,  
20 because I had Dr. Helm's report and I did  
21 reference that I was hoping that he would stay  
22 with his treatment plan. So I make that  
23 connection and say, yes, I believe I was.

24 Q. And did you discuss with Mr. Cook  
25 his treatment plan with Dr. Helm?

1           A.    I believe that, if it was none  
2           standard, I would have put something down. I  
3           believe it was the usual combination of  
4           medications, whether it's lithium carbinatate or  
5           Depakote or whatever else they might have used,  
6           and psychotherapy of some kind to manage. That  
7           would be my best guess. Something of a guess,  
8           but I wouldn't have made this commentary  
9           without discussing something like that with  
10          him.

11           Q.    Were you able to determine during  
12          the course of your evaluation how Mr. Cook  
13          injured his neck?

14           A.    I accepted the findings here that  
15          his neck was hurt and apparently there was an  
16          allowance for that. I usually do. I don't  
17          have specific notes here to that effect so I'm  
18          going to say I don't have any recollection of  
19          that.

20           Q.    Did Mr. Cook mention at any time  
21          during the course of your evaluation that  
22          equipment that he operated within the City of  
23          Norwood was disabled by his supervisors?

24           MR. MARTIN: To which I object.

25           MR. HILLER: Objection.

1           A.    He may have.   I have no  
2   recollection of that.

3           Q.    Assuming Mr. Cook is employed by  
4   the City of Norwood as a street sweeper  
5   operator, and that his supervisors at the City  
6   of Norwood go down to the lead mechanic of  
7   Norwood Public Works and instruct that mechanic  
8   to disable the street sweeper, to force  
9   Mr. Cook to run a jackhammer, would that affect  
10   his bipolar disorder?

11                   MR. MARTIN:  Objection.

12                   MR. HILLER:  Objection.

13                   MR. WILLIS:  Objection.

14           A.    In that theoretical circumstance,  
15   it may, but again, I'd have to review that on a  
16   case by case basis and I need more information.

17                   MR. HILLER:  Move to strike.

18           Q.    Were you able to determine if  
19   Mr. Cook was a religious individual,  
20   Dr. Oleski?

21           A.    I have no recollection of that  
22   whatsoever, so I would say no.

23                   MR. KELLY:  I'm done.  Thank you,  
24   Doctor.

25



1                                   RECROSS-EXAMINATION

2           BY MR. HILLER:

3                   Q.     Briefly, Doctor, if I understand  
4                   your testimony correctly, you're not giving a  
5                   professional opinion that Mr. Cook's bipolar  
6                   disorder was aggravated or exacerbated by his  
7                   employment or any other employees?

8                               MR. KELLY:  Objection.

9                   A.     That is correct.

10                   Q.    And I recall that you apparently  
11                   were not specifically asked by BWC to render an  
12                   opinion as to whether Mr. Cook was disabled at  
13                   the time that you saw him, but can you, upon  
14                   review of your report, and again upon the basis  
15                   of your education and training and perhaps your  
16                   recollection as you sit here of your interview  
17                   and observations of Mr. Cook, are you able to  
18                   express an opinion to a reasonable degree of  
19                   psychological certainty as to whether he would  
20                   have been disabled from his job as a street  
21                   sweeper as of the date of your interview?

22                   A.    As of the date of the interview?

23                   Q.    Yes.

24                   A.    That's difficult.  The best I can  
25                   come up with is that during that interview he

1 was very distressed and that his distress was  
2 such that, if I have to go one way or the  
3 other, I would probably say he would have had a  
4 difficult time working and, therefore, could  
5 have been characterized as at least partially  
6 disabled by dint of his cognitive difficulties  
7 and emotional difficulties.

8 MR. KELLY: Objection, move to  
9 strike.

10 Q. Would you be able to say that his  
11 inability to work or his disability would be to  
12 a probable degree?

13 A. Again, this is tough, it's been  
14 two and a half years, but going from my notes,  
15 I would say it would be to a probable degree.  
16 He was very distressed.

17 MR. HILLER: I have no other  
18 questions. Thank you.

19 MR. MARTIN: No questions.

20 MR. KELLY: Doctor, I just have a  
21 couple questions for you.

22 RECROSS-EXAMINATION

23 BY MR. KELLY:

24 Q. One is, your entire evaluation of  
25 this gentleman consisted of approximately 40

1 minutes; is that correct?

2 A. Yes, it is.

3 Q. And as you're sitting here today,  
4 you really can't state whether his bipolar  
5 condition was aggravated by other employees at  
6 Norwood Public Works because you don't have the  
7 information to make that determination; is that  
8 correct?

9 A. That would be correct.

10 Q. And you don't have the information  
11 in your possession whether his superiors at  
12 Norwood Public Works -- and by superior I mean  
13 his supervisors -- aggravated his bipolar  
14 condition because you don't have the baseline  
15 to determine that. Is that correct?

16 A. That would be correct also.

17 MR. MARTIN: Objection.

18 Q. And you didn't take any of this  
19 information concerning any aggravation of his  
20 bipolar condition at the time that you did your  
21 evaluation because your evaluation was limited  
22 to whether his bipolar condition was connected  
23 to his neck injury. Is that correct?

24 A. Best of my recollection, that is  
25 correct.

1           Q.    And if you were requested to  
2 determine whether Mr. Cook's bipolar condition  
3 was aggravated or exacerbated by his employment  
4 within the City of Norwood, what if any  
5 information would you require to make that  
6 determination?

7           A.    First thing I'd have to say would  
8 be it sounds as though you're asking me to make  
9 that determination as of when I did the  
10 evaluation which was, again, two and a half  
11 years ago, so I'm not -- that would be pretty  
12 difficult without very sensitive information,  
13 because I'd be recreating, again, a set of  
14 circumstances, personality circumstances, et  
15 cetera, from -- this is October of 2000? That  
16 would be awfully difficult to do. I mean, all  
17 sorts of medical records and reports, and I  
18 could analyze it as best I could, but there's  
19 just some severe limiting factors in even  
20 attempting to do that.

21           Q.    And what would those limiting  
22 factors be?

23           A.    That I'm trying to go back in time  
24 with someone who -- go back in time two and a  
25 half years and determine where this gentleman

1 was emotionally, vis-a-vis his work  
2 circumstance, and the variables that you're  
3 talking about here.

4 Q. Would his treating psychiatrist  
5 who was treating him through that period of  
6 time have information in his possession which  
7 could assist you in making that determination?

8 A. It's possible. He would sound  
9 like at least a much more comprehensive -- a  
10 potentially much more comprehensive source of  
11 information. Since I did an evaluation of this  
12 gentleman -- are you referring to Dr. Helm?

13 Q. Yes.

14 A. Would have been the one presumably  
15 with office notes and a history with him. Yes.

16 Q. And having that continuity of  
17 relationship with Mr. Cook would permit a  
18 health care professional to make a  
19 determination whether his bipolar condition was  
20 exacerbated or aggravated by conditions of his  
21 employment; is that correct?

22 A. Potentially, it would. I don't  
23 want to speak for Dr. Helm --

24 Q. I understand.

25 A. -- but from my standpoint, it

1 would make him certainly a better informed  
2 assessor of that.

3 MR. KELLY: I have nothing  
4 further.

5 MR. HILLER: Nothing further.

6 MR. MARTIN: No questions. Thank  
7 you doctor.

8  
9  
10 MERRITT OLESKI, Ph.D.  
11 (DEPOSITION CONCLUDED AT 10:55 A.M.)

12 - - -  
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C E R T I F I C A T E

STATE OF OHIO :

: SS

COUNTY OF HAMILTON :

I, Darlene Anthony, RPR, the under-

signed, a duly qualified notary public within

and for the State of Ohio, do hereby certify

that MERRITT OLESKI, Ph.D. was first duly sworn

to depose the truth, the whole truth, and

nothing but the truth; the foregoing is the

deposition given at said time and place by said

witness; that said deposition was taken

pursuant to stipulations hereinbefore set forth;

that said deposition was taken by me in stenotypy

and transcribed by means of computer; that said

deposition was submitted to the witness for

examination and signature; that I am neither a

relative of any of the parties or any of their

counsel; and I am not, nor is the court

reporting firm with which I am affiliated,

under a contract as defined in Civil Rule

28(D), and have no interest in the result of

this action.

IN WITNESS WHEREOF, I hereunto set my  
hand and official seal of office at Cincinnati,  
Ohio, this 14th day of April 2003

My Commission expires: Darlene Anthony

May 10, 2006

Notary Public-State of Ohio